

Freedom Court Reporting, Inc

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION

4 Case No. 2:08-cv-422 TJW

5 DEPOSITION OF ERIC EMDE

May 4, 2010

6
7 PATTY BEALL, MATTHEW MAXWELL, TALINA McELHANY and
8 KELLY HAMPTON, individually and on behalf of all
9 others similarly situated,

10 Plaintiffs,

11 vs.

12 TYLER TECHNOLOGIES, INC. and EDP ENTERPRISES,
13 INC.,

14 Defendants.

15
16 APPEARANCES:

17 ZELBST, HOLMES & BUTLER
18 By Chandra L. Holmes Ray, Esq.
19 P.O. Box 365
20 Lawton, Oklahoma 73502
21 (580) 248-4844
22 Appearing on behalf of Plaintiffs.

23 MORGAN, LEWIS & BOCKIUS, LLP
24 By Paulo B. McKeeby, Esq.
25 1717 Main Street, Suite 3200
Dallas, Texas 75201-7347
(214) 466-4000
Appearing on behalf of Defendants.

Also Present: H. Lynn Moore, Jr.

367 Valley Avenue Birmingham, Alabama (877) 373-3660

EXHIBIT NO. 42

Freedom Court Reporting, Inc**2**

1 Pursuant to Notice and the Federal Rules
 2 of Civil Procedure, the deposition of ERIC EMDE,
 3 called by Defendants, was taken on Tuesday, May 4,
 4 2010, commencing at 9:52 a.m., at 216 16th Street,
 5 Suite 650, Denver, Colorado, before Gail
 6 Obermeyer, Registered Professional Reporter and
 7 Notary Public within and for the State of
 8 Colorado.

9

10 I N D E X

11 DEPOSITION OF ERIC EMDE

12	EXAMINATION BY:	PAGE
13	Ms. Holmes	115
14	Mr. McKeeby	4, 120

15

16 EXHIBITS INITIAL REFERENCE

17	Exhibit 1	Time Report pertaining	20
18		to Emde, 1/10/10 to	
19		1/16/10, with	
		attachments	
20	Exhibit 2	Resume of Eric A. Emde	28
21	Exhibit 3	Letter to Emde from	49
		Boen, 2/20/07	
22	Exhibit 4	Time Report pertaining	69
23		to Emde, 6/4/07 to	
24		6/10/07, with	
		attachments	

25

367 Valley Avenue Birmingham, Alabama (877) 373-3660**EXHIBIT NO. 42**

Freedom Court Reporting, Inc**3**

1	I N D E X (Continued)	
2	EXHIBITS	INITIAL REFERENCE
3	Exhibit 5	Time Report pertaining 73
4		to Emde, 1/6/08 to
5		1/12/08, with
6		attachments
7	Exhibit 6	Time Report pertaining 74
8		to Emde, 1/14/09 to
9		1/10/09, with
10		attachments
11	Exhibit 7	Time Report pertaining 74
12		to Emde, 9/28/09 to
13		10/3/09, with
14		attachments
15	Exhibit 8	Bonus Calculation, 75
16		12/27/09 to 4/16/10,
17		with attachments
18	Exhibit 9	Consent to Opt In 112
19		pertaining to Eric
20		Emde, 8/14/09
21		
22		
23		
24		
25		

367 Valley Avenue Birmingham, Alabama (877) 373-3660**EXHIBIT NO. 42**

Freedom Court Reporting, Inc

81

1 But I was more the middleman.

2 Q So with an implementation, some
3 tasking, to use your term, has already been done
4 before you get the -- before you're on the site?

5 A Yes.

6 Q And that would have been done by the
7 conversion programmer?

8 A Or the project manager or the -- or
9 maybe even some of the other people that were
10 involved on other parts of the program.

11 Q And the people who do the background
12 work that you mentioned and the formulas and
13 calculations, would that have been conversion
14 programs or some other group of employees?

15 A I think that -- conversion programmers
16 are only involved when there's data from another
17 piece of software that's being converted into the
18 INCODE software. The tasking might say that this
19 is conversion, just realizing that there's more to
20 look at. But that does not mean that I would, in
21 fact, be the conversion person.

22 The person that does the setup,
23 preliminary setup, there would be several
24 different people involved. One could be setting
25 up forms, another person could be working with the

367 Valley Avenue Birmingham, Alabama (877) 373-3660

EXHIBIT NO. 42

Freedom Court Reporting, Inc

82

1 people that do -- for example, on calculations for
2 electrical permits, how do they -- somebody would
3 call, work with the building people and say, "How
4 do you calculate these things? What are the
5 scales that you would use?" They would write the
6 formulas for that.

7 Q And all that would be done before you
8 get to the site?

9 A Generally, yes.

10 Q Are you familiar with a term
11 "configuration"?

12 A Configuration, in a general sense, yes.

13 Q Is that a term that's used at Tyler
14 with respect -- well, period?

15 A Yes, but it has a lot of different
16 meanings.

17 Q The meaning that I attached to
18 configuration relates to taking data from the
19 customer's previous system and setting it up or
20 configuring it into Tyler software. Do you -- is
21 that a definition, if you will, of configuration
22 that you're familiar with at Tyler?

23 A I'm familiar with the definition, but I
24 would call that conversion.

25 Q And is conversion a subset of

Freedom Court Reporting, Inc

83

1 configuration or something different?

2 A It's the -- it's actually something
3 different.

4 Q Does any of the work that you do as an
5 implementation specialist involve conversion, or
6 is that work done by a conversion programmer?

7 A Again, the conversion programmer would
8 get the data from the site, originally, look at it
9 and try to match it up with what INCODE does. And
10 when I was on site, my job would be to make sure
11 that what the conversion programmer changed or
12 brought into the program was what the customer
13 wanted -- how they wanted to see it or that was --
14 things were matching up, that they weren't apples
15 and oranges; so the apples fell into the apples
16 pile, and the oranges fell into the oranges pile.

17 But I would just say, "Hey, look at
18 this. This is what's being brought over. Is that
19 right?" I didn't have anything to do with
20 converting it, other than telling maybe the
21 programmer, "This one goes in that pile instead,
22 and we don't need this one, based on what the
23 customer said."

24 Q That would be the extent of the work
25 that you would do that you would describe as

367 Valley Avenue Birmingham, Alabama (877) 373-3660

EXHIBIT NO. 42

Freedom Court Reporting, Inc

84

1 conversion?

2 A Yes.

3 Q And using not my definition of
4 configuration, but a definition -- and I
5 understand you testified that it's a broad term.
6 So if you can answer the question, fine. Is there
7 any work that you do that you would describe as
8 configuration?

9 MS. HOLMES: Object to the form.

10 A Maybe a very small piece of it.

11 Q (BY MR. McKEEBY) What piece do you
12 mean?

13 A I couldn't put a percentage on it, but
14 it would be adjusting a form so it pulls in the
15 right kind of -- maybe changing a field from
16 something that was listed as property to something
17 that belongs in a permit field. And it would be a
18 matter of working with a Microsoft Word template
19 to change the code. The code -- and this is not
20 like coding in software. It's only coding, for
21 example, changing the term from BP to PP, with
22 whatever the attachment was.

23 Q And that's -- what definition of
24 configuration are you using when you describe that
25 functionality -- or that function, rather?

Freedom Court Reporting, Inc

85

1 A How about tweaking? Just minor
2 adjustments. Maybe a form needs to have an extra
3 space in it. I could go do that.

4 Q Otherwise, it would approach
5 programming, which you don't do?

6 A Oh, yeah, definitely. Even a lot of
7 that other part, that's why we have specialists
8 that do nothing but Word templates, for example,
9 or forms templates.

10 Q Let me -- I got a little off track,
11 whether you know it or not. But let me get back
12 to you getting a task document -- tasking document
13 from Ms. -- is it Lynn?

14 A Phyllis Lynn, yes.

15 Q Let's -- I want to use an example. And
16 I know that implementations can be different, but
17 is there -- I've got this Copperas Cove time
18 report in front of me, which is fairly recent.
19 It's in the beginning of 2009. I think that's the
20 first of the --

21 A Yes.

22 Q Do you have that one? And I'm not sure
23 the document is going to help you, but it might.
24 So go ahead and keep it in front of you, if you
25 like. But my question relates to, it looks like

Freedom Court Reporting, Inc

93

1 utility that -- the trainers actually help some of
2 the software developers develop over time, which
3 is a -- it's called a TD manager. What that
4 actually does is takes a copy of the full INCODE
5 database and makes a mirror image of it on the
6 server that can be used for training. It only
7 reads one direction. It reads from the live data
8 into test and training.

9 The purpose of that is so a student can
10 get in there and just play, and make payments, and
11 calculations, and it will never hit the books. It
12 will never affect the live software. That can
13 take -- if it's a small database that is not an
14 SQL database, it can take 15 minutes. If it's a
15 large database, it could take a couple hours.

16 Q What are you doing -- let's say an
17 example of it taking a couple hours. What
18 functions are you doing to assist in setting up
19 the full INCODE database?

20 A Load the utility, hit run.

21 Q And it just -- and then wait?

22 A And then if it works, wonderful; if it
23 doesn't, find out why not and do it again.

24 Q And you need to have this done prior to
25 doing any training?

Freedom Court Reporting, Inc

94

1 A No, not necessarily. But it's one of
2 the baseline things I would normally do.

3 Q Okay. So you get to the -- let's maybe
4 back up a little bit. It's Monday morning at
5 Copperas Cove, Texas. How do you know -- have you
6 set up what time you're supposed to be at the
7 site?

8 A Yes.

9 Q That would have been in the
10 conversation that you mentioned previously?

11 A Yes.

12 Q Would there be a typical time that you
13 would generally have to be there or need to be
14 there?

15 A I would be there usually when they
16 opened their doors.

17 Q Which would be when?

18 A In Copperas Cove, I think it was 8:00.

19 Q And I take it you would then meet with
20 the person that you would talk to?

21 A Right.

22 Q And then what would you do after this
23 meeting? Would you then do the setup?

24 A Well, get access to the server, do the
25 setup, figure out where I'm going to be working.

Freedom Court Reporting, Inc

95

1 In the case of Copperas Cove, it was inside of a
2 little server closet. But then there would also
3 be --

4 Q You mean physically where you'd be
5 working?

6 A Yeah. Best one was a bathroom, but
7 that's another story. Also, where I would be
8 working with people when I was actually training.
9 In that case, they had a City Council chambers, so
10 I would have to set up one of their laptops,
11 projector, that sort of thing.

12 Q Would there be discussion during this
13 initial meeting as to when training would
14 commence?

15 A Yes.

16 Q And the -- I take it the customer would
17 explain its preferences as to --

18 A Yeah, who they wanted to have trained
19 and in what quantities, I guess, depending on
20 function. There are some generic things on the
21 CRM, or the customer relationship management
22 software, which is the packages that I was
23 training that are common. So you could have a
24 larger group orientation and break into hands-on.
25 But who was going to be there just depended on